



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

Memorandum

To: Members of the AELR Committee
Standing Committee Chairs

From: Marie H. Razulis, AELR Committee Counsel
George H. Butler, Jr., AELR Committee Counsel
Crystal L. Lemieux, AELR Committee Counsel

Date: July 15, 2016

Re: **Synopses of Regulations received from 7/1/2016 through 7/14/2016**

Enclosed please find synopses of regulations received by the AELR Committee during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

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cc: Victoria L. Gruber
Alexandra Hughes

Comptroller of the Treasury

Proposed Regulation

DLS Control No. 16-157

Comptroller of the Treasury:

Online Fantasy Competitions:

General Provisions: COMAR 03.11.01.

According to the office, the purpose of this action is to ensure fantasy sports competitions, as defined in the proposed regulations, are conducted in Maryland on a fair and level playing field, and to provide for the disclosure of information regarding players' tax obligations.

Health and Mental Hygiene, Department of

Proposed Regulation

DLS Control No. 16-143

Department of Health and Mental Hygiene:

Board of Physicians:

Mandated Reporting to the Board: COMAR 10.32.22.01 through .09

According to the department, the purpose of this action is to define and clarify precisely for hospitals and other reporting entities what changes in employment or privileges require reporting to the Board of Physicians. Based on the 2013 amendments to the Medical Practice Act, §§ 14-413 and 14-414 of the Health Occupations Article, and a recommendation by the Department of Legislative Services (DLS) in its 2011 Sunset Report, the Board conducted extensive outreach and received helpful input from all interested parties and stakeholders before developing these proposed regulations. Because of the reporting entities' apparent confusion about the instances that require reporting, the proposed regulations provide explicit, practical, and easily understandable guidance on what they are required to report, and so avoid the imposition of civil penalties for failure to do so.

Historically, since the 1977 enactment of the reporting statute, compliance with its provisions has been extremely low. DLS, in its 2011 Sunset Report, found that underreporting by hospitals remains a significant problem. Hospitals have repeatedly failed to report terminations, suspensions, involuntary resignations and other actions adversely affecting physician privileges and patient care. As a result, DLS strongly recommended that the Board exercise its authority to assess a civil penalty for noncompliance. Once the requirements have been clarified in these regulations, the Board anticipates few violations and little or no economic impact, but believes it is necessary for the Board to exercise its statutory authority to impose a civil penalty if there is a violation.

Proposed Regulation

DLS Control No. 16-145

Department of Health and Mental Hygiene:

Medical Care Programs:

Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old: COMAR 10.09.53.07

According to the department, the purpose of this action is to modify the indexing of rates in order to ensure that the amount of the applicable index will be known during the time that the annual budget is developed. Language is also proposed to align with federal policy allowing Medicaid payment for services provided free of charge to other patients.

Proposed Regulations

DLS Control No. 16-148

Department of Health and Mental Hygiene:

Medical Care Programs:

Freestanding Clinics: COMAR 10.09.08.10

Telehealth Services: COMAR 10.09.49.01 through .08 and .10 through .12

According to the department, the purpose of this action is to (1) clarify and update the telehealth chapter based on administrative simplifications to register as a telehealth provider; (2) permit providers who are fluent in American Sign Language (ASL) to engage in telehealth directly with a deaf or hard of hearing recipient from the recipient's home or other secure agreed upon location in an effort to increase access for deaf or hard of hearing recipients; and (3) update the language in the Freestanding Clinics' chapter to stay consistent with the amendments made to the telehealth chapter.

Proposed Regulations

DLS Control No. 16-155

Department of Health and Mental Hygiene:

Medical Care Programs:

Health Homes: COMAR 10.09.33.09

Community-Based Substance Use Disorder Services: COMAR 10.09.80.08

1915(i) Intensive Behavioral Health Services for Children, Youth, and Families: COMAR 10.09.89.10-.14

According to the department, the purpose of this action is to update the listed rates for community based behavioral health services to the 2% increased rate, effective July 1, 2016. The Fiscal Year 2017 State budget, approved under Senate Bill 190 and assigned Chapter 143 in the 2016 Laws of Maryland Volume V, includes a 2% rate increase for community behavioral health providers, in accordance with Article III, §52(6) of the Maryland Constitution, April 12, 2016.

Labor, Licensing and Regulation, Department of

Proposed Regulation

DLS Control No. 16-146

Department of Labor, Licensing, and Regulation:

Division of Labor and Industry:

Crane Safety: COMAR 09.12.26.04, and .10 through .11

According to the department, the purpose of this action is to amend Maryland's current Crane Safety regulation to clarify the requirements for riggers of cranes when used in construction and demolition. Maryland has an existing Crane Safety regulation, effective April 6, 2009. Similar federal crane standards in 29 CFR §1926 became a Final Rule on August 9, 2010. During the required adoption process the Maryland specific Crane Safety regulation term "master/lead rigger" was substituted for the federal "Assembly/Disassembly (A/D) Director" or "Lift Director (LD)". The terms are not interchangeable. This amendment clarifies the use of these terms in the adoptive language.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 16-144

Department of Natural Resources:

Fisheries Service:

General: COMAR 08.02.01.13

According to the department, the purpose of this action is to limit hunting at Urbana Lake Fishery Management Area to the use of archery equipment only. Urbana Lake is a 60 acre Fisheries Management Area in Frederick County. The property shares borders with a golf course, residential properties, and I-270. Owners of the adjacent properties and the Natural Resources Police (NRP) have expressed concern about firearm use while hunting near the property boundaries. The managers of the property would like to address these concerns while allowing the hunters that use the property to continue their hunting activities. Limiting hunting on Urbana Lake to archery hunting only will address the boundary concerns of neighboring property owners and NRP. The proposed action changes the hunting at Urbana Lake Fishery Management Area by removing the area from the general hunting section, limiting hunting to the use of archery equipment and banning firearms.

Proposed Regulation

DLS Control No. 16-147

Department of Natural Resources:

Boating – Speed Limits and Operation of Vessels:

Eastern Bay: COMAR 08.18.10.02

According to the department, the purpose of this action is to coordinate changes that occurred from a typographical error. Therefore, repositioning the 6-knot speed zone to its original placement.

Public Safety and Correctional Services, Department of

Proposed Regulation

DLS Control No. 16-150

Department of Public Safety and Correctional Services:

Correctional Training Commission:

General Regulations: COMAR 12.10.01.22

According to the department, the purpose of this action is to modify and re-define the criteria and requirements for prior substance abuse by applicants for mandated correctional officer certification.

Transportation, Department of

Proposed Regulation

DLS Control No. 16-153

Department of Transportation:

Motor Vehicle Administration – Commercial Motor Vehicles:

Motor Carrier Safety: COMAR 11.21.01.05

According to the department, the purpose of this action is to repeal unnecessary language for clarification of requirements for motor carriers and drivers in the event of a transportation emergency as set forth in House Bill 229, Chapter 256, Acts of 2016.

Proposed Regulations

DLS Control No. 16-154

Department of Transportation:

Motor Vehicle Administration – Vehicle Registration:

Historic Motor Vehicles: COMAR 11.15.06.01 through .06

According to the department, the purpose of this action is to repeal duplicative regulations as permitted uses and inspection requirements for a historic motor vehicle are specifically set out in statute and enhanced by HB 58, Chapter 608, Acts of 2016.

Criminal Sentencing Policy, Commission on

Proposed Regulations

DLS Control No. 16-156

Independent Agencies:

Commission on Criminal Sentencing Policy:

General Regulations: COMAR 14.22.01.01, .02, and .10

Criminal Offenses and Seriousness Categories: COMAR 14.22.02.01 and .02

According to the commission, the purpose of this action is to indicate modifications to the scope in Regulation .01, the definitions in Regulation .02, and the computation of the offender score in Regulation .10 under COMAR 14.22.01 General Regulations. Additionally, the purpose of this action is to indicate modifications to the list of headings in Regulation .01 and the table of seriousness categories (guidelines offense table) in Regulation .02 under COMAR 14.22.02. The proposed revisions reflect (1) clarification regarding the types of cases that are covered by the sentencing guidelines; (2) a revised definition for “guidelines offense”; (3) updates to the instructions for computation of the offender score to indicate that adjudications based on acts that were no longer criminal offenses and expunged or expungable adjudications shall be excluded from the prior adult criminal record; (4) new and or amended offenses with October 1, 2016 enactment dates; (5) addition of previously unclassified offenses; and (6) other minor edits to the table.

Insurance Administration, Maryland

Proposed Regulations

DLS Control No. 16-152

Maryland Insurance Administration:

Life Insurance and Annuities:

Charitable Gift Annuities: COMAR 31.09.07.03

Credit Life and Credit Health Insurance: Standards for Credit Life and Credit

Health Insurance: COMAR 31.13.01.04 and .21

Credit Life and Credit Health Reinsurance: COMAR 31.13.02.02 through .04

Standards for Credit Involuntary Unemployment Benefit Insurance:

COMAR 31.13.03.04 and .16

According to the administration, the purpose of this action is to amend Regulation .03 of COMAR 31.09.07; Regulations .04 and .21 of COMAR 31.13.01; Regulations .02, .03, and .04 of COMAR 31.13.02; and Regulations .04 and .16 of COMAR 31.13.03 with a technical amendment to change the term “accepted reinsurer” to “accredited reinsurer” consistent with changes made by Chapter 321 of 2013 to Title 5, Subtitle 9 of the Insurance Article regarding reinsurers.

Lottery and Gaming Control Agency, Maryland State

Proposed Regulations

DLS Control No. 16-142

Maryland State Lottery and Gaming Control Agency:

Skill-based Amusement Devices:

General: COMAR 36.08.01.01 and .02

Registration: COMAR 36.08.02.01

Amusement Gaming License: COMAR 36.08.03.01 through .06

General Standards: COMAR 36.08.04.01 and .02

According to the agency, the purpose of this action is to (1) define a skills-based amusement device; (2) require annual registration with the Maryland State Lottery and Gaming Control Commission if the device awards prizes other than the award of free play; (3) outline the Maryland State Lottery and Gaming Control Commission's licensing requirements over these devices and applicable sanctions for failing to adhere to the amusement gaming license process; and (4) describe general operation standards and functionality and performance testing, if required.

Education, State Board of

Emergency Regulation

DLS Control No. 16-151

State Board of Education:

Students:

General Regulations: COMAR 13A.08.01.02-3

According to the board, HB 657 – Education – Pre-Kindergarten and Kindergarten Assessments – Administration (Chapter 273 of the Laws of Maryland 2016 and effective July 1, 2016) requires the State Board of Education to adopt regulations to implement the new provisions of law concerning the Kindergarten Readiness Assessment before the 2016/2017 school year. The adoption of standard regulations, which require notice and comment period, could not be adopted in the timeframe required by HB 657. Thus, emergency regulations are being proposed to implement the provisions of HB 657.

Ethics Commission, State

Proposed Regulations

DLS Control No. 16-149

State Ethics Commission:

Procedures:

General Provisions: COMAR 19A.01.01.02 and .04

Advisory Opinions: COMAR 19A.01.02.02 and .05

Enforcement Procedures: COMAR 19A.01.03.02, .09, and .10

Local Government Ethics Law: Appendices A and B – Model Ethics Laws A and B:

COMAR 19A.04.00.00

General Provisions: COMAR 19A.04.01.03

Review Criteria: COMAR 19A.04.02.04 and .05

Review Procedures: COMAR 19A.04.03.01

Board of Education Ethics Regulations: Appendices A and B – Model Board of

Education Ethics Regulations: COMAR 19A.05.00.00

Review Criteria: COMAR 19A.05.02.04 and .06

Blind Trusts: General Provisions: COMAR 19A.06.01.03

Criteria for Certification and Exception: COMAR 19A.06.02.04 and .05

Procedural Requirements: COMAR 19A.06.03.05 and .07

Lobbying: General: COMAR 19A.07.01.04, and .06 through .08

According to the commission, the purpose of this action is to update State Ethics Commission regulations to (1) conform to the provisions of Title 5 of the General Provisions Article; (2) update provisions related to filing of motions, blind trusts and office/copying hours; and (3) correct reference errors.